

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

SHANNON R. TODD,)
)
)
Petitioner,)
)
vs.) Case No. 1:14-cv-00221-TLW
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)
WARDEN, LIVESAY CORRECTIONAL)
INSTITUTION,)
)
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Respondent.)
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ORDER

Petitioner Shannon R. Todd, an inmate with the South Carolina Department of Corrections, filed this pro se habeas petition pursuant to 28 U.S.C. § 2254 on January 27, 2014. (Doc. #1). Respondent filed a motion for summary judgment on June 18, 2014 (Doc. #19), to which Petitioner filed a response in opposition on July 3, 2014 (Doc. #25). Respondent replied on July 14, 2014 (Doc. #26), and Petitioner filed a surreply on July 28, 2014 (Doc. #27). Petitioner also filed a motion for a hearing on January 29, 2015. (Doc. #30).

This matter is before the Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Shiva V. Hodges, to whom this case was assigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c), (D.S.C.). In the Report, the Magistrate Judge recommends that this Court grant Respondent’s motion for summary judgment and dismiss the petition with prejudice. (Doc. #28). Petitioner filed timely objections to the Report (Doc. #31), and this matter is now ripe for disposition.

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

The Court has carefully reviewed the Report and Petitioner's objections thereto in accordance with the standard announced in Wallace, and it concludes that the Magistrate Judge accurately summarizes the case and the applicable law. Accordingly, it is hereby **ORDERED** that the Report and Recommendation is **ACCEPTED** (Doc. #28), and Petitioner's objections thereto are **OVERRULED** (Doc. #31). For the reasons articulated by the Magistrate Judge, Respondent's motion for summary judgment is **GRANTED** (Doc. #19), and the petition is **DISMISSED** with prejudice.

The Court has reviewed this petition as well as Petitioner's motion for a hearing in accordance with the Rules Governing Section 2254 Proceedings. Because the facts and legal contentions are adequately presented in the materials before the Court, an evidentiary hearing pursuant to Rule 8 would not aid in the decisional process. Petitioner's motion for a hearing is hereby **DENIED**. (Doc. #30).

In accordance with Rule 11, the Court concludes that it is not appropriate to issue a certificate of appealability as to the issues raised herein. Petitioner is advised that he may seek a certificate from the Fourth Circuit Court of Appeals under Rule 22 of the Federal Rules of

Appellate Procedure.

IT IS SO ORDERED.

s/Terry L. Wooten

Terry L. Wooten
Chief United States District Judge

February 2, 2015
Columbia, South Carolina